

REMARKS

The present application includes pending claims 1-28, all of which have been rejected. By this Amendment, claims 1-5, 6, 8, 10-12, 14, 17, 20-21 and 23-26 have been amended, while new claims 29-38 have been added.

Claims 1-8 and 10-27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2004/0261096 ("Matz") in view of U.S. 6,973,664 ("Fries"). Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Matz in view of Fries and U.S. 6,308,329 ("Takahashi"). Claim 28 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Matz in view of Fries and U.S. 6,145,083 ("Shaffer"). The Applicants respectfully traverse these rejections for at least the following reasons:

I. The Proposed Combination Of Matz And Fries Does Not Render Claims 1-8 And 10-27 Unpatentable

The Applicants first turn to the rejection of claims 1-8 and 10-27 as being unpatentable over Matz in view of Fries. The Office Action acknowledges that "Matz does not explicitly teach the set top box circuitry causing the displaying from the storage, of idle state media when no scheduled media is available." *See* August 3, 2007 Office Action at page 3. Indeed, Matz discloses the following:

FIG. 1 illustrates an exemplary operating environment 100 employing an embodiment of the present invention. A server device 102 communicates with one or more client devices, such as client device 104 and/or client device 105 [set top box], via a communication network 106. Server device 102 transmits media content, such as, but not limited to, video, audio, text, or executable programs, over the communication network 106 to be used by the client devices 104 and/or 105. Each of the client devices 104 and/or 105 has an output device, such as a computer

monitor 114, or a television screen 116, for presenting media content to the user.

The server device 102 has memory 108 that stores media content in the form of data streams 110, 134, and 136.

Matz at Paragraphs [0045]-[0046] (emphasis added). The Applicants agree that Matz does not describe, teach or suggest “the set top box circuitry causing the displaying, from the storage at the first location, of idle state media when no scheduled media is available.”

In order to overcome this deficiency, the Office Action cites Fries at column 4, lines 29-34. This portion of Fries states, however, the following:

As used herein, a screen saver program refers to software that in response to satisfaction of a first predetermined condition, such as a specified duration of time without keyboard 110, mouse 112, or other input device input, the program displays information on the display 104.

Fries at column 4, lines 29-34. Further, Fries defines its tuning device as a “device that is able to translate an incoming signal 106 into a picture, typically with accompanying sound, for viewing on a TV screen or other display 104.” None of the cited portions of Matz or Fries describe, teach or suggest, however, “the set top box circuitry **at the first location** causing the displaying, from the storage **at the first location**, of idle state media when no scheduled media is available,” as recited in claim 1. Thus, for at least these reasons, the Applicants respectfully request reconsideration of the rejection of claim 1 and the claims that depend therefrom.

Dependent claim 5 recites, in part, “at least one display device at a second location communicatively coupled to the set top box circuitry [at the first location].” The Office Action cites Matz at Paragraph [0045] as disclosing this limitation. *See* August 3, 2007 Office Action at page 3. Indeed, the Office Action states that “server device 102 communicates with many client

devices.” *See id.* However, the claim recites “at least one display device **at a second location** communicatively coupled to the **set top box circuitry**,” as opposed to a server device, at the **first location**. Thus, for at least this reason, the Applicants respectfully request reconsideration of the rejection of claim 5.

Independent claim 10 recites, in part, “storing the idle state media **at the first location**; causing the displaying of the idle state media **at the first location** according to a user defined sequence, if no scheduled media is available. Similarly, independent claim 15 recites, in part, “storing the media **at the first location**; . . . causing the displaying of the idle state media **at the first location** according to a user defined sequence, when no scheduled media is available.” The Applicants respectfully request reconsideration of the rejection of independent claims 10, 15 and the claims that depend therefrom for at least the reasons discussed above with respect to claim 1.

II. The Applicants Request Reconsideration Of The Remaining Rejections

As noted above, claim 9 stands rejected as being unpatentable over Matz in view of Fries and Takahashi, while claim 28 stands rejected as being unpatentable over Matz in view of Fries and Shaffer. The Applicants respectfully request reconsideration of these rejections for at least the reasons set forth above.

III. New Claims 29-38

New claims 29-38 should be in condition for allowance for at least the reasons discussed above. The fee for these new claims is calculated as follows:

10 new claims in excess of 20 X \$50/claim = \$500

1 new independent claim in excess of 3 X \$200/claim = \$200

TOTAL = \$700

IV. Conclusion

In general, the Office Action makes various statements regarding claims 1-28 and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in an Examiner's Answer to an Appeal Brief).

The Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness with respect to any of the pending claims for at least the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

The Commissioner is authorized to charge any necessary fees, including the \$700 fee for new claims 29-38, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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